

**RAILROAD COMMISSION OF TEXAS  
OFFICE OF GENERAL COUNSEL  
OIL AND GAS SECTION**

**OIL AND GAS DOCKET NO. 09-0220952**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY BILL DURKEE D/B/A DECO ENERGY (209437), AS TO THE MCGAUGHY, H.C. (21250) LEASE, WELL NOS. 1, 3, 3A, 4, 5 AND 6, MONTAGUE COUNTY REGULAR FIELD, MONTAGUE COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 13, 1999 and that the respondent, Bill Durkee d/b/a Deco Energy (209437), failed to appear or respond to the notice. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure [Tex. R. R. Comm'n, 16 TEX. ADMIN. CODE § 1.49] and after being duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. Bill Durkee d/b/a Deco Energy (209437), ("respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 (Organization Report) address, which was returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing Opportunity, was returned to the Commission marked "unclaimed" on November 15, 1999. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Respondent designated itself to the Commission as the operator of Well Nos. 1, 3, 3A, 4, 5 and 6 on the McGaughy, H.C. (21250) Lease ("subject wells"/subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance), effective on August 1, 1997.
4. The subject wells have been dry or inactive for a period in excess of one year. Commission inspection and/or production reports indicate that Well Nos. 1, 4, 5 and 6 ceased production on or before July 1, 1994. Well No. 3 ceased disposal on or before November 1, 1993.
5. Well Nos. 1, 3, 4, 5, and 6 have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
6. Usable quality water in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores

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constitute a cognizable threat to public health and safety because of the probability of pollution.

7. The estimated cost to the State of plugging Well Nos. 1, 3, 4, 5 and 6 is \$35,000.00.
8. Commission district office inspections were conducted on July 8, 1998, August 26, 1998, September 21, 1998, December 15, 1998 and September 16, 1999 on the McGaughy, H.C. (21250) Lease. Well No. 3A is equipped with casing only and has a cement obstruction (plug) located 10 feet below ground surface. No Commission form W-3 (Plugging Record) has been filed for this well.
9. Commission district office inspections were conducted on August 26, 1998, September 21, 1998, December 15, 1998 and September 16, 1999 for the McGaughy, H.C. (21250) Lease. The sign or identification required to be posted at Well Nos. 1 and 3 displayed incorrect information.
10. Commission district office inspections were conducted on July 8, 1998, July 27, 1998, August 26, 1998, September 21, 1998, December 15, 1998 and September 16, 1999 for the McGaughy, H.C. (21250) Lease. Well No. 3 had been completed and permitted as a disposal well, but the required Commission Form W-2 has never been filed, as was required by Saltwater Disposal Permit No. 03965.
11. The respondent did not demonstrate good faith since it failed to plug or otherwise place the subject wells and subject lease in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
12. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 7B-0219150; Rules 3 and 14; Final Order Served: March 5, 1999.

## **CONCLUSIONS OF LAW**

1. Proper notice was issued by the Railroad Commission to respondent and all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed or have occurred.
3. Respondent is in violation of Commission Statewide Rules 3(a), 14(b)(1), 14(b)(2) and 16(a).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 3(a), which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility

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shall post signs or identification.

5. Respondent is responsible for maintaining the subject lease in compliance with Rule 14(b)(1), requires that the operator shall complete and file in the district office a duly verified plugging record, in duplicate, on the appropriate form within 30 days after plugging operations are completed. A cementing report made by the party cementing the well shall be attached to, or made a part of, the plugging report. If the well the operator is plugging is a dry hole, an electric log status report shall be filed with the plugging record.
6. Respondent is responsible for maintaining the subject lease in compliance with Rule 16(a), which requires that the owner or operator of an oil, gas or geothermal resource well, must within thirty (30) days after the completion of such well, or the plugging of such well, if the well is a dry hole, shall file with the Commission the appropriate completion or plugging report.
7. Respondent is responsible for maintaining the subject wells and the subject lease in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 14, 58, and 79 and Chapters 89 and 91, Texas Natural Resources Code.
8. The documented violations committed by the respondent constitute acts deemed serious, a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c) (Vernon 1993).

**IT IS ORDERED THAT** within 30 days from the day immediately following the date this order becomes final:

1. Bill Durkee d/b/a Deco Energy (209437), shall plug and or otherwise place the McGaughy, H.C. (21250) Lease, Well Nos. 1, 3, 4, 5 and 6, Montague County Regular Field, Montague County, Texas in compliance with applicable Commission rules and regulations; and
2. Bill Durkee d/b/a Deco Energy (209437), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIXTEEN THOUSAND DOLLARS (\$16,000.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to

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further action by the Commission. Pursuant to TEX. GOV'T CODE § 2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

Noncompliance with the provisions of this order is subject to enforcement by the Attorney General and subject to civil penalties of up to \$10,000.00 per day per violation.

Done this 10th day of March, 2000.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order  
dated March 10, 2000)

MH/sa